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10/699,073	10/30/2003	Ken Yoshikawa	P/2291-111	1368

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EXAMINER	
SAFAIPOUR, BOBBAK	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/699,073	YOSHIKAWA, KEN	
	Examiner	Art Unit	
	Bobbak Safaipour	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 November 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This Action is in response to Applicant's response filed on 11/26/2007. **Claims 1-22** are still pending in the present application. **This action is made FINAL.**

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-6, 8-16, and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Straub (United States Patent Application #5,905,492; hereinafter Straub)** in view of **Tanaka (UK Patent Application GB 2 372 587).**

Consider **claim 1**, Straub clearly shows and discloses a system for delivering data from a server to a mobile communication device through a network, the server (col. 7, line 10-15; figure 2; Theme Server) comprising:

a data memory for storing a plurality of pieces of data (col. 7, lines 9-13; col. 10, lines 1-8; The theme server is a server computer on the network which is managed by a theme provider, and stores a group of resources for one or more themes supplied by the theme provider); and

a server controller controlling such that a piece of data of the plurality of pieces of data is selected as a selected piece of data from the data memory in response to a data request received from the mobile communication device and the selected piece of data is transmitted back to the mobile communication device (col. 7, lines 13-17, 22-27; The theme provider provides the periodically updating theme as a service to the user of the computer. Software at the computer automatically downloads new theme resources from the theme server to update the locally stored resources of the themes. The newly downloaded resources can replace the theme's resources which were previously stored locally at the computer), and

the mobile communication device (col. 5, lines 6; fig. 1; Computer) comprising:

an output device (col. 5, lines 34-36; figure 1; The output device can comprise a display, a printer, a transducer, etc);

a mobile device memory (col. 5, lines 19-22; figure 1; The memory system generally includes high-speed main memory in the form of a medium such as RAM and ROM);

a controller controlling such that the selected piece of data downloaded from the server is stored in the mobile device memory, wherein the selected piece of data is reproduced by the output device (col. 5, lines 10-14; col. 6, lines 31-35, 45-50; figure 1; The CPU includes an ALU

for performing computations, a collection of registers for temporary storage of data and instructions, and a control unit for controlling operation of the system. The computer locally stores one or more groups of multi-media resources ("themes") in its memory system. The resources in the illustrated themes include still images, video, sounds, animations, text, and the like stored as a file or files. The resources of each theme enhance the graphical user interface of the computer's operating system by altering various sensory elements of the interface).

Straub fails to specifically disclose a data request controller for controlling automatic transmission of the data request to the server depending on a user-designated time condition entered on user operation keys of the mobile communication device, the user-designated time condition specifying a future time for the automatic transmission of the data request.

In related art, Tanaka discloses a data request controller for controlling automatic transmission of the data request to the server depending on a user-designated time condition entered on user operation keys of the mobile communication device, the user-designated time condition specifying a future time for the automatic transmission of the data request. (abstract; page 2, line 1 to page 3, line 16; page 4, lines 3-17; page 5, lines 17 to page 7, line 2)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Tanaka into the teachings of Straub for enhancing the services offered by the device to make it more convenient for the user.

Consider **claim 10**, Straub shows and discloses the claimed invention wherein a method for delivering data from a server to a mobile communication device through a network, the method comprising:

at the mobile communication device, transmitting the data request to the server when the transmission condition is met (col. 3, lines 50-52; col. 10, lines 1-8; The updated service automatically performs the updating at scheduled intervals, at times that the user is otherwise connected to the network);

at the server, storing a plurality of pieces of data (col. 7, lines 9-13; col. 10, lines 1-8; The theme server is a server computer on the network which is managed by a theme provider, and stores a group of resources for one or more themes supplied by the theme provider); receiving the data request from the mobile communication device; selecting a piece of data from the data memory in response to the data request; transmitting a selected piece of data to the mobile communication device (col. 7, lines 13-17, 22-27; The theme provider provides the periodically updating theme as a service to the user of the computer. Software at the computer automatically downloads new theme resources from the theme server to update the locally stored resources of the themes. The newly downloaded resources can replace the theme's resources which were previously stored locally at the computer);

at the mobile communication device, storing the selected piece of data downloaded from the server in a memory; and reproducing the selected piece of data (col. 5, lines 10-14; col. 6, lines 31-35, 45-50; figure 1; The CPU includes an ALU for performing computations, a collection of registers for temporary storage of data and instructions, and a control unit for controlling operation of the system. The computer locally stores one or more groups of multi-media resources ("themes") in its memory system. The resources in the illustrated themes include still images, video, sounds, animations, text, and the like stored as a file or files. The

resources of each theme enhance the graphical user interface of the computer's operating system by altering various sensory elements of the interface).

Straub fails to specifically disclose determining an automatic transmission condition of a data request depending on a user's instruction entered on user operation keys of the mobile communication device, the user-designated time condition specifying a future time for the automatic transmission of the data request.

In related art, Tanaka discloses determining an automatic transmission condition of a data request depending on a user's instruction entered on user operation keys of the mobile communication device, the user-designated time condition specifying a future time for the automatic transmission of the data request. (abstract; page 2, line 1 to page 3, line 16; page 4, lines 3-17; page 5, lines 17 to page 7, line 2)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Tanaka into the teachings of Straub for enhancing the services offered by the device to make it more convenient for the user.

Consider **claim 18**, Straub shows and discloses a mobile communication device connected to a server through a network, the mobile communication device comprising:

an output device (col. 5, lines 34-36; figure 1; The output device can comprise a display, a printer, a transducer, etc);

a memory (col. 5, lines 19-22; figure 1; The memory system generally includes high-speed main memory in the form of a medium such as RAM and ROM); and

a controller controlling such that a piece of data downloaded from the server is stored in the memory, wherein the piece of data is reproduced by the output device (col. 5, lines 10-14; col. 6, lines 31-35, 45-50; figure 1; The CPU includes an ALU for performing computations, a collection of registers for temporary storage of data and instructions, and a control unit for controlling operation of the system. The computer locally stores one or more groups of multi-media resources ("themes") in its memory system. The resources in the illustrated themes include still images, video, sounds, animations, text, and the like stored as a file or files. The resources of each theme enhance the graphical user interface of the computer's operating system by altering various sensory elements of the interface).

Straub fails to specifically disclose a data request controller operable to control automatic transmission of a data request to the server depending on a user-designated time condition entered on user operation keys of the mobile communication device, the user-designated time condition specifying a future time for the automatic transmission of the data request.

In related art, Tanaka discloses a data request controller operable to control automatic transmission of a data request to the server depending on a user-designated time condition entered on user operation keys of the mobile communication device, the user-designated time condition specifying a future time for the automatic transmission of the data request. (abstract; page 2, line 1 to page 3, line 16; page 4, lines 3-17; page 5, lines 17 to page 7, line 2)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Tanaka into the teachings of Straub for enhancing the services offered by the device to make it more convenient for the user.

Consider **claim 20**, Straub discloses the claimed invention wherein a server for delivering data to a mobile communication device through a network, the server comprising:

a data memory operable to store a plurality of pieces of data (col. 7, lines 9-13; col. 10, lines 1-8; The theme server is a server computer on the network which is managed by a theme provider, and stores a group of resources for one or more themes supplied by the theme provider); and

a server controller controlling such that a piece of data is selected from the data memory in response to a data request received from the mobile communication device and a selected piece of data is transmitted back to the mobile communication device (col. 7, lines 13-17, 22-27; The theme provider provides the periodically updating theme as a service to the user of the computer. Software at the computer automatically downloads new theme resources from the theme server to update the locally stored resources of the themes. The newly downloaded resources can replace the theme's resources which were previously stored locally at the computer),

Straub fails to specifically disclose the data request received is sent from the mobile communication device according to a user-designated time condition entered via user operation keys of the mobile communication device and specifying a future timing of the data request to the server.

In related art, Tanaka discloses data request received is sent from the mobile communication device according to a user-designated time condition entered via user operation keys of the mobile communication device and specifying a future timing of the data request to

the server. (abstract; page 2, line 1 to page 3, line 16; page 4, lines 3-17; page 5, lines 17 to page 7, line 2)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Tanaka into the teachings of Straub for enhancing the services offered by the device to make it more convenient for the user.

Consider **claim 21**, Straub discloses the claimed invention wherein a computer readable medium incorporating a program of instructions for instructing a computer to download data from a server to a mobile communication device through a network, the program of instructions comprising:

instructions for transmitting the data request to the server when the transmission condition is met (col. 3, lines 50-52; col. 10, lines 1-8; The updated service automatically performs the updating at scheduled intervals, at times that the user is otherwise connected to the network);

instructions for receiving a piece of data as a response to the data request from the server; instructions for storing the piece of data in a memory; and instructions for reproducing the selected piece of data (col. 5, lines 10-14; col. 6, lines 31-35, 45-50; figure 1; The CPU includes an ALU for performing computations, a collection of registers for temporary storage of data and instructions, and a control unit for controlling operation of the system. The computer locally stores one or more groups of multi-media resources ("themes") in its memory system. The resources in the illustrated themes include still images, video, sounds, animations, text, and the

like stored as a file or files. The resources of each theme enhance the graphical user interface of the computer's operating system by altering various sensory elements of the interface).

Straub fails to specifically disclose instructions for determining a transmission condition of a data request depending on a user's instruction entered on user operation keys of the mobile communication device, the user-designated time condition specifying a future time for the automatic transmission of the data request.

In related art, Tanaka discloses instructions for determining a transmission condition of a data request depending on a user's instruction entered on user operation keys of the mobile communication device, the user-designated time condition specifying a future time for the automatic transmission of the data request. (abstract; page 2, line 1 to page 3, line 16; page 4, lines 3-17; page 5, lines 17 to page 7, line 2)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Tanaka into the teachings of Straub for enhancing the services offered by the device to make it more convenient for the user.

Consider **claim 22**, Straub discloses a computer readable medium incorporating a program of instructions for program instructing a computer to deliver data to a mobile communication device through a network, comprising: instructions for storing a plurality of pieces of data; instructions for receiving a data request from the mobile communication device; instructions for selecting a piece of data from the data memory in response to the data request; instructions for transmitting a selected piece of data to the mobile communication device storing a plurality of pieces of data, (col. 7, lines 9-13; col. 10, lines 1-8; The theme server is a server

computer on the network which is managed by a theme provider, and stores a group of resources for one or more themes supplied by the theme provider).

Straub fails to specifically disclose the data request received is sent from the mobile communication device according to a user-designated time condition entered via user operation keys of the mobile communication device and specifying a future timing of the data request to the server.

In related art, Tanaka discloses that the data request received is sent from the mobile communication device according to a user-designated time condition entered via user operation keys of the mobile communication device and specifying a future timing of the data request to the server. (abstract; page 2, line 1 to page 3, line 16; page 4, lines 3-17; page 5, lines 17 to page 7, line 2)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Tanaka into the teachings of Straub for enhancing the services offered by the device to make it more convenient for the user.

Consider **claim 2**, and **as applied to claim 1 above**, Straub, as modified by Tanaka, discloses the claimed invention wherein each piece of data stored in the data memory includes image data and sound data (col. 6, lines 31-35; The computer locally stores multi-media resources in its memory system, such as still images, video, sounds, animations, text, etc), wherein

the output device comprises an image displaying section and a sound outputting section (col. 5, lines 34-36; The output device can comprise a display, a printer, a transducer (e.g. a speaker), etc); and

the controller controls such that the image data of the selected piece of data is displayed on the image displaying section and the sound data of the selected piece of data is reproduced by the sound outputting section (col. 5, lines 34-36; figure 1; The control unit controls the operation of the system, including the operation of the output device, which can comprise a display, a printer, a transducer (e.g. a speaker), etc).

Consider **claim 3**, and **as applied to claim 1 above**, Straub, as modified by Tanaka, discloses the claimed invention wherein the claimed invention wherein the user-designated time condition is at least one date and time, at which the data request controller transmits the data request to the server (col. 3, lines 50-52; The update service automatically performs the updating at scheduled intervals, at times that the user is otherwise connected to the network).

Consider **claim 4**, and **as applied to claim 1 above,** Straub, as modified by Tanaka, discloses the claimed invention wherein the claimed invention wherein the user-designated time condition is a time period, wherein the data request controller transmits the data request to the server at intervals of the time period (col. 3, lines 50-52; The update service automatically performs the updating at scheduled intervals, at times that the user is otherwise connected to the network).

Consider **claim 5**, and **as applied to claim 1 above,** Straub, as modified by Tanaka, discloses the claimed invention wherein the data request controller holds the transmission of a data request to the server when at least one communication or internal processing function is operating in the mobile communication device. (page 6, second paragraph)

Consider **claim 6**, and **as applied to claim 1 above,** Straub, as modified by Tanaka, discloses the claimed invention wherein the controller controls such that the selected piece of data is reproduced by the output device immediately after the selected piece of data has been downloaded from the server. (page 6, first and second paragraph).

Consider **claim 8**, and **as applied to claim 1 above,** Straub, as modified by Tanaka, discloses the claimed invention wherein the server controller selects a piece of data from the data memory depending on a predetermined sequence. (page 6, first and second paragraph).

Consider **claim 9**, and **as applied to claim 1 above,** Straub, as modified by Tanaka, discloses the claimed invention wherein the data request controller is implemented by executing a Java application using the selected piece of data, wherein the Java application is downloaded from the server (col. 12, lines 17-31; figure 5; The information pane comprises a content area where the computer plays live or locally cached information retrieved from servers on the Internet or computer network, which include hyperlinks and embedded software components, such as Java applets).

Consider **claim 11,** and **as applied to 10 above,** Straub, as modified by Tanaka, discloses the claimed invention wherein the server stores Java applications, wherein the transmission condition of a data request is determined by: downloading a Java application from the server; and setting the transmission condition in the Java application, wherein the Java application is executed in the mobile communication device to download a necessary piece of data from the server (col. 12, lines 17-31; figure 5; The information pane comprises a content area where the computer plays live or locally cached information retrieved from servers on the Internet or computer network, which include hyperlinks and embedded software components, such as Java applets).

Consider **claim 12,** and **as applied to claim 10 above**, Straub, as modified by Tanaka, discloses the claimed invention wherein the transmission condition of a data request is at least one date and time, at which the data request is transmitted to the server (col. 3, lines 50-52; The update service automatically performs the updating at scheduled intervals, at times that the user is otherwise connected to the network).

Consider **claim 13**, and **as applied to claim 10 above**, Straub, as modified by Tanaka, discloses the claimed invention wherein (col. 3, lines 50-52; The update service automatically performs the updating at scheduled intervals, at times that the user is otherwise connected to the network).

Consider **claim 14**, and **as applied to claim 10 above**, Straub, as modified by Tanaka, discloses the claimed invention wherein for at the mobile communication device, determining whether at least one function is operating in the mobile communication device; when at least one function is operating, holding the transmission of a data request to the server until no function is operating. (page 6, second paragraph).

Consider **claim 15**, and **as applied to claim 10 above,** Straub, as modified by Tanaka, discloses the claimed invention wherein each piece of data includes image data and sound data, wherein the image data of the selected piece of data is displayed on a display and the sound data of the selected piece of data is reproduced by a speaker immediately after the selected piece of data has been downloaded from the server (col. 5, lines 34-36; figure 1; The control unit controls the operation of the system, including the operation of the output device, which can comprise a display, a printer, a transducer (e.g. a speaker), etc).

Consider **claim 17**, and **as applied to claim 1 above,** Straub, as modified by Tanaka, discloses the claimed invention wherein the server controller selects a piece of data from the data memory depending on a predetermined sequence. (page 6, first and second paragraph).

Consider **claim 19**, and **as applied to claim 18 above**, Straub, as modified by Tanaka, discloses the claimed invention wherein the piece of data includes image data and sound data, wherein the output device comprises an image displaying section and a sound outputting section

(col. 5, lines 34-36; The output device can comprise a display, a printer, a transducer (e.g. a speaker), etc),

wherein the controller controls such that the image data of the selected piece of data is displayed on the image displaying section and the sound data of the selected piece of data is reproduced by the sound outputting section (col. 5, lines 34-36; figure 1; The control unit controls the operation of the system, including the operation of the output device, which can comprise a display, a printer, a transducer (e.g. a speaker), etc).

Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Straub (United States Patent Application #5,905,492)** in view of **Tanaka (UK Patent Application GB 2 372 587)** and in further view of **Yeh (United States Patent #6,675,010 B1).**

Consider **claims 7 and 16**, and **as applied to claim 1 above,** Straub et al, as modified by Tanaka, show and disclose the claimed invention expect for wherein the server controller randomly selects a piece of data from the data memory.

However, Yeh discloses as known in the art a mobile communication system for receiving information by means of a mobile communication device through RF linkage, wherein a user requests information from the central computer mainframe. The central computer mainframe will randomly select information from the database and sent the information to the mobile communication device of the user.

Therefore, it would have been obvious of one of ordinary skill in the art to incorporate the teachings of Yeh into the system of Straub and King to utilize the mobile communication device for receiving random information relating to a topic of the user's choice.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any response to this Office Action should be **faxed to** (571) 273-8300 **or mailed to**:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bobbak Safaipour whose telephone number is (571) 270-1092. The Examiner can normally be reached on Monday-Friday from 9:00am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lana Le can be reached on (571) 272-7891. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Bobbak Safaipour
B.S./bs
February 13, 2008

02-15-08
LANA LE
PRIMARY EXAMINER